

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division

CYNTHIA DONN TESSLER,

Plaintiff,

v.

Civil Action No. 2:08cv234

NBC UNIVERSAL, INC.,

Defendant.

DECLARATION OF HILARY LANE

I, Hilary Lane, hereby state:

1. I am Vice President, Litigation at NBC Universal, Inc. ("NBCU"), 30 Rockefeller Plaza, New York, New York 10112. I submit this Declaration in support of NBCU's Motion for an Award of Attorneys' Fees.

2. I am an attorney in good standing with and licensed to practice in the State of New York. I am admitted to practice before the United States District Courts for the Southern and Eastern Districts of New York. A copy of my current resume is attached as **Exhibit A**.

3. I have been an in-house litigator at NBCU since December 2005. Prior to that time I was counsel at two major New York law firms, Kaye Scholer LLP and Clifford Chance LLP. Since graduating from Georgetown University Law Center in 1989, I have handled cases in both federal and state courts. My practice has been and continues to be concentrated in the area of media law, including cases that involve patents, copyrights and trademarks. I have handled cases both at the trial and at the appellate levels in both state and federal courts.

4. I took an active co-counsel role in all substantive issues in this matter, often writing the original drafts of major pleadings and supporting documents. I was also responsible for the day-to-day management of the case and was involved in all strategic decisions. Although I spent substantial time on this matter from the inception of the case, NBCU is only requesting an

award for the time I spent drafting (1) the motion to dismiss, (2) NBCU's objections to the Report and Recommendation and (3) NBCU's response to Plaintiff's objections to the Report and Recommendation. Specifically, NBCU seeks an award for the following tasks:

Review and analyze complaint and amended complaint, conduct research and draft motion to dismiss	25 hours
Review and analyze opposition to motion, conduct research and draft reply brief	14 hours
Review and analyze Magistrate Report and draft objections	8 hours
Review and analyze Plaintiff's objections and draft response	6 hours
TOTAL	<u>53 hours</u>

5. Because my experience and expertise are comparable to Mr. Noona, a billing rate of \$375 per hour is a reasonable rate for the time I spent on this matter. This is a conservative rate for my time. When I left private practice in 2005, my hourly rate was \$550. Attorneys with my experience and expertise in New York command rates in excess of \$650. Nevertheless, in this case NBCU seeks only \$375 per hour for my time, for a total of \$19,875.

6. From the inception of this matter, NBC has attempted to dissuade Plaintiff from filing her claim. In a series of letters, NBC detailed the fatal deficiencies of Plaintiff's claims to Plaintiff and her counsel. NBC also made clear that it would seek attorneys' fees if Plaintiff pursued the claims. Despite these efforts to avoid this unnecessary litigation, Plaintiff chose to file her unfounded claims.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on the 13th day of April 2009.



HILARY LANE

Dated: April 13, 2009

Respectfully submitted,

/s/ Stephen E. Noona

Stephen E. Noona

VSb No. 25367

Kristan B. Burch

VSb No. 42640

R. Johan Conrod, Jr.

VSb No. 46765

Counsel for Defendant NBC Universal, Inc.

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CERTIFICATE OF SERVICE

I hereby certify that on April 13, 2009, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following:

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/s/ Stephen E. Noona
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